

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D.C. 20548

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FILE: B-210873

DATE: June 9, 1983

MATTER OF: Deere & Company

DIGEST:

Solicitation's relaxation of Federal specification resulting in alleged competitive advantage to one manufacturer of diesel loaders which can offer less expensive machine than used by other manufacturers does not result in an "unfair advantage." In any event, actual competition refuted alleged "unfair advantage."

Deere & Company (Deere) protests the specifications under invitation for bids (IFB) No. DLA700-83-B-0412 for the purchase of diesel loaders issued by the Defense Logistics Agency (DLA). Deere contends that DLA's relaxation of the Federal specification under this IFB results in an unfair advantage to a competitor, Caterpillar Tractor Company (Caterpillar). According to Deere, the less restrictive specifications, providing minimum requirements for the loaders, allow Caterpillar to bid a smaller-dimensioned loader which meets the specifications, but costs much less than the loader other manufacturers will have to bid.

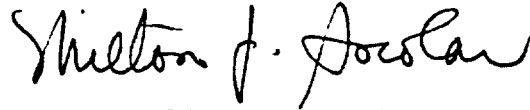
We rejected a virtually identical allegation in Deere & Company, B-206453.3, November 1, 1982, 82-2 CPD 392. In that case, Deere alleged that a competitor had an "unfair advantage" because it could manufacture a motor grader, with a less expensive type of transmission which was responsive to the specifications and, therefore, could presumably submit a lower bid. However, we found this contention without merit, recognizing that firms may enjoy a competitive advantage by virtue of their own particular circumstances and that the Government is not required to equalize the advantage. Deere & Company, supra.

In any event, DLA reports that Fiat Allis, bidding its own machine, submitted the low responsive bid in response to this IFB and that Caterpillar's bid of its smaller loader was the fourth low bid of five bids. Deere submitted the highest priced bid. Thus, despite Caterpillar's ability to submit its allegedly lower priced model, three other bidders

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"outbid" Caterpillar. In our view, the bidding under this IFB refutes Deere's allegation that Caterpillar has received an "unfair advantage" under the relaxed specifications.

We deny the protest.

A handwritten signature in cursive script, reading "Milton J. Jordan".

Acting Comptroller General
of the United States